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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,741	12/21/2000	Sture Roos	2483-26	5607
23117	7590	08/18/2005	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			BAYARD, EMMANUEL	
			ART UNIT	PAPER NUMBER
			2638	

DATE MAILED: 08/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/741,741

Applicant(s)

ROOS, STURE

Examiner

Emmanuel Bayard

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This is in response to appeal brief filed on 6/27/05 in which claims 12-22 are pending. The applicant's arguments have been fully considered therefore the finality has been withdrawn. In addition a new ground of rejection is hereby provided below.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Locklear Jr et al U.S. Patent no 6,483,870 B1.

As per claims 12 and 18, Locklear et al teaches Apparatus for use in a communications system for providing access to telecommunication services, comprising: a customer premises is the same as the claimed (user terminal) (see fig.1 element 20 and col.3, lines 49-55) operable by a subscriber (see fig.1 element 12 and col.3, lines 64-65) and for receiving telecommunication services; a net terminal (see fig.1 block having elements 16, 24, 26 and col.4, lines 19-29) coupled between the user terminal (20) and an access point (see fig. Block having elements 14, 16, 17 and col.4, lines 38-46 and col.5, lines 13-23) associated with a communications network including modem pool is the same as the claimed (a first modem, a second modem) (see figs.2-3 elements 50 and 104 and col.7, lines 30-45) and first switching circuitry (see fig.3 element 100 and col.7, lines 33-67) selectively controllable to direct signals to and from

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the user terminal via the communications network using the first modem or the second modem; the access point including one or more modems, one or more modems (see fig.3 elements 50 and col.7, lines 33-45), and second switching circuitry (see fig.3 element 106 and col.7, lines 39-65), different from the first switching circuitry, selectively controllable to support a connection with the user terminal via the communication network using one of the broadband modems or one of the narrowband modems; and a controller (see fig.3 element 114 and col.7, lines 45-67) for controlling the first and second switching circuitry to support the connection

Locklear Jr et al does not explicit teach a modem pool of high speed, broadband modem, a second, lower speed, narrowband modem.

Since Locklear et al teaches modems using ADSL, VDSL and HDSL technology (see col.6, lines 3-10), it would have been obvious to one of ordinary in the art to implement high speed, broadband modem, a second, lower speed, narrowband modem in the Locklear as to provide better performance for large and constant data rates in order to enhance the system capability.

As per claims 13 and 19, Locklear et teach an XDSL modem and PSTN connection (see col.6, lines 5-8 and col.4, line 22).

As per claim 14, the controller (see fig.3 element 114) of Locklear would be configured to control the first and second switching circuitry to select the second modem and the one narrowband modem if or when the connection can not be supported as desired between the first modem and the one broadband modem as to provide better

performance for large and constant data rates in order to enhance the system capability.

As per claims 15 and 21, the controller (see fig.3 element 114) of Locklear would be configured to regulate switching of the first and second switching circuitry based on detection of one or more predetermined conditions as to provide better performance for large and constant data rates in order to enhance the system capability.

As per claim 16, the controller (see fig.3 element 114) of Locklear would be configured to establish the connection using the second modem and the one narrowband modem, and to select the first modem and the one broadband modem as to provide better performance for large and constant data rates in order to enhance the system capability.

As per claims 17 and 22, Locklear would teach wherein a data connection and a voice connection are established and supported in parallel with the user terminal using the first and second modems and the one broadband modem and the one narrowband modem as to provide better performance for large and constant data rates in order to enhance the system capability.

As per claim 20 Locklear would teach switching of the first and second switching circuit based on detection of one or more predetermined conditions as to provide better performance for large and constant data rates in order to enhance the system capability.

***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dunn et al U.S. Patent No 6,163,536 teaches a communication system.

Akram et al U.S. Patent No 6,868,081 B1 teaches a method and apparatus for simultaneous multi-line phone.

Ogasawara U.S. Patent No 5,220,560 teaches a modem pool system.

Civanlar et al U.S. Patent no 5,995,606 teaches a client server.

Merril et al US Pub no 20030198215 A1 teaches a router.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel Bayard whose telephone number is 571 272 3016. The examiner can normally be reached on Monday-Friday (7:Am-4:30PM) Alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vanderpuye Kenneth can be reached on 571 272 3078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Emmanuel Bayard  
Primary Examiner  
Art Unit 2638

8/16/05



**EMMANUEL BAYARD**  
**PRIMARY EXAMINER**